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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 JOHN H. ROSKY,

Case No. 3:16-cv-00156-MMD-VPC

8 Petitioner,

9 v.

ORDER

10 QUENTIN BYRNE, *et al.*,

11 Respondents.

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13 Before the Court is petitioner's motion for reconsideration (ECF No. 45) of the
14 Court's order of January 19, 2018, directing petitioner to provide evidence or citation to
15 evidence authenticating the audio tape and transcript of the audio tape on which he relies
16 to make his gateway claim of actual innocence and directing respondents to respond to
17 petitioner's gateway claim. The Court would note that in order to make a gateway claim
18 of actual innocence, petitioner must introduce new, *reliable* evidence. Absent proper
19 authentication by petitioner, the Court cannot conclude that the audio tape on which he
20 relies is reliable. Further, the Court in its discretion believes that a response to petitioner's
21 gateway claim of actual innocence is necessary in order for the Court to properly evaluate
22 petitioner's claim. Accordingly, petitioner's motion for reconsideration of the Court's order
23 dated January 19, 2018 (ECF No. 45) is hereby denied.

24 DATED THIS 1st day of February 2018.

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27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE